

COLORADO AIR QUALITY CONTROL COMMISSION
AGENDA ITEM SUMMARY

Item Title: Revisions to Regulation Number 3, Parts A, B, C and Appendix A

Meeting Date: November 21, 2013

TYPES OF ACTION		
NON-HEARING ACTIONS	REQUEST FOR HEARING	HEARING
<input type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Rulemaking	<input type="checkbox"/> Rulemaking
<input type="checkbox"/> Briefing	<input type="checkbox"/> Public	<input type="checkbox"/> Public
<input type="checkbox"/> Policy	<input type="checkbox"/> Adjudicatory	<input type="checkbox"/> Adjudicatory
<input type="checkbox"/> Other	<input type="checkbox"/> Informational	<input type="checkbox"/> Informational

RECOMMENDED ACTION		
<input type="checkbox"/> Adoption	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Denial

MOTION		
<input checked="" type="checkbox"/> Required	<input type="checkbox"/> Attached	<input type="checkbox"/> Not Applicable

STATUTORY AUTHORITY	
<input type="checkbox"/> General	<input checked="" type="checkbox"/> Specific

EPA SUBMITTAL	
Is this issue considered a SIP revision? <u>Yes, specific only to Parts A and B</u>	
Which SIP? <u>Emissions Inventory and New Source Review Infrastructure Elements</u>	
EPA submission deadline: <u>NA</u>	
Is this a delegated program? <u>Yes, specific only to Part C</u>	

ISSUE STATEMENT:

The Colorado Department of Public Health and Environment, Air Pollution Control Division (“Division”) requests that the Colorado Air Quality Control Commission (“Commission”) consider proposed revisions to Regulation Numbers 3, 6, and 7.

In late 2012, the Commission partially adopted the Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution found in 40 C.F.R. Part 60, Subpart OOOO (“NSPS OOOO”). At that time, the Commission directed the Division to consider full adoption of NSPS OOOO, as well as other improvements to Colorado’s oil and gas emission regulations. This comprehensive rulemaking package is the result of those efforts and would result in significant, and cost effective, emissions reductions from the oil and gas sector.

The broad package proposes incorporating the remaining provisions in NSPS OOOO into Regulation Number 6, Part A and making the corresponding revisions to the Regulation Number 3 catchall provisions to address barriers that prevented full adoption of NSPS OOOO. The package also proposes to revise Regulation Number 7 to address differences and overlaps between NSPS OOOO and Regulation Number 7 oil and gas control requirements, and to further reduce hydrocarbon emissions and leaks from oil and gas facilities.

This Regulation Number 3 rulemaking proposes to remove the requirements for sources with emissions below reporting and permitting thresholds but subject to either a New Source Performance Standard (“NSPS”) or National Emission Standards for Hazardous Air Pollutant (“NESHAP”) adopted into Regulation Number 6, Part A or Regulation Number 8, Parts A, C, D and E to file an APEN and obtain a minor source permit (“catchall provisions”). It also proposes to simplify the non-criteria reportable pollutant de minimis determination, and to remove the crude oil storage tank permitting exemptions.

The proposed revisions also correct typographical, grammatical, and formatting errors found throughout the regulation.

The revisions to Regulation Number 3, Parts A, B, and Appendix A are SIP revisions.

REGULATION NUMBER 3 PROPOSAL:

The proposed revisions to Regulation Number 3 will reduce the administrative burdens that would otherwise occur when NSPS OOOO is adopted in full. Significantly, the Division does not advocate full adoption of NSPS OOOO without removing the catchall provisions. The details are described below.

I. Catchall Provisions

Colorado currently requires sources subject to a standard incorporated into Regulation Number 6, Part A (NSPS) or Regulation Number 8, Parts A, C, D, and E (NESHAP/MACT) to file an APEN and obtain a minor source permit. As it stands, these sources must file an APEN and obtain a permit even if the source or source category would otherwise qualify for a reporting or permitting exemption due to its negligible emissions and impact on air quality.

The Division proposes to revise the catchall provisions in Part A, Section II.D.1. and Part B, Sections II.A.5. and II.D. that have created this incongruity. Specifically, the Division proposes to revise these provisions so that sources subject to a NSPS or NESHAP/MACT are no longer automatically required to file an APEN and obtain a permit, regardless of emission levels. These revisions simplify and streamline an unduly complicated and burdensome permitting framework.

The environmental impacts of revising the catchall provisions are minimal and no emissions increases are anticipated because these revisions will not exempt any source from complying with the requirements of an applicable NSPS or NESHAP/MACT.

This revision will reduce the number of sources that are required to file an APEN and obtain a permit because sources subject to a federal NSPS or NESHAP/MACT incorporated into Regulations Number 6 or Number 8 will only be required to file an APEN and obtain a permit if their emissions exceed reporting and permitting thresholds. The Division's current, ongoing minor source permit tracking indicates that 8% (164) permits processed from February 14, 2013, to August 30, 2013, required permits only because of the catchall provision, and had approximately 0.03% of the total uncontrolled actual criteria pollutant emissions during the tracking project and 0.002% of statewide uncontrolled actual criteria pollutant emissions.

Consider how the current catchall provisions would apply if the Commission adopts MACT JJJJJJ, which applies to a multitude of small boilers. Under the catchall provisions, every boiler providing electricity, steam, or hot water in a hotel, restaurant, laundry, medical center, research center, institution of higher education, or manufacturing, processing, mining, or refining facility would be required to file an APEN and obtain a minor source permit, even if the source had emissions less than the reporting and permitting thresholds.

This revision will reduce the administrative burden on both the Division and regulated community. The Division also estimated through the permit tracking project that approximately 0.6 Full Time Equivalent would be saved due to the catchall provisions revisions. If this revision is adopted, the Division will continue to maintain a regulatory presence with these sources by providing guidance, compliance tools and outreach, and assessing compliance status as necessary. Further, revising the catchall provisions does not change the applicability of the NSPS, NESHAP, or MACT to subject sources.

Finally, the Division believes this proposal will not interfere with attainment requirements. This revision is largely administrative in nature and no emissions increases are anticipated. The permits being issued solely because the activity is subject to an NSPS or NESHAP/MACT do not establish additional control measures. For a more detailed discussion of noninterference with the National Ambient Air Quality Standards, please see the attached CAA §§110(l) Noninterference Demonstration.

II. Part A, Appendix A

The Division proposes to revise the Part A, Appendix A method for determining non-criteria reportable pollutant de minimis thresholds. Specifically, the Division proposes to standardize the de minimis reporting threshold and set a 250 pounds per year threshold for all non-criteria reportable pollutants, regardless of the pollutant, height of release point or distance to property boundary. This revised threshold will apply statewide.

Regulation Number 3 currently requires sources to report non-criteria reportable pollutants if the source has uncontrolled actual emissions that exceed reporting thresholds. Regulation Number 3, Appendix B lists all 363 non-criteria reportable pollutants, of which 330 are federal or state hazardous air pollutants. Currently, reporting thresholds are determined using a complex pollutant bin and scenario matrix found in Appendix A.

To determine what non-criteria reportable pollutant threshold applies, Regulation Number 3, Part B, Appendix B must be consulted to determine the non-criteria reportable pollutant's bin category, which is based on toxicity. Next, the height of release point and distance to property boundary are calculated to identify the scenario, further complicated by having to convert feet to meters. Combined, the bin and scenario identify the reporting threshold per non-criteria reportable pollutant per emission point. This process must be repeated for each non-criteria reportable pollutant and each emission point, and quickly becomes resource-intensive. Current non-criteria reportable pollutant de minimus reporting thresholds range from 50 to 5,000 pounds per year.

This revision establishes a simplified, standard reporting threshold of 250 pounds per year for all non-criteria reportable pollutants. This eliminates the complicated matrix system and streamlines the process for sources, and for the Division, both in explaining the process to sources and reviewing reported emissions.

The environmental impact of revising the non-criteria reportable pollutant threshold is minimal and no emissions increases are anticipated, because this is simply a reporting threshold without any related emission control requirements. This revision preserves at least 96% of the Division's current non-criteria reportable pollutant tracking, which will continue to provide data to the EPA for the National Emissions Inventory, as well as to external clients such as environmental groups and the public. In addition, because the proposed reporting threshold is less than the current thresholds for many of the current scenarios, the revision will result in additional emissions of Bin B and Bin C pollutants being reported.

Lastly, the Division believes this proposal will not interfere with attainment requirements because EPA does not establish NAAQS for hazardous air pollutants. For a more detailed discussion of noninterference with the National Ambient Air Quality Standards, please see the attached CAA §§110(l) Noninterference Demonstration.

III. Crude Oil Storage Tanks

The Division proposes to revise the crude oil storage tank exemptions in Part B, Section II.D.1.n. and Part C, Section II.E.3.ddd. This is because emissions from crude oil storage tanks can be significant and the exemptions are meant to be limited to emission points with negligible impacts on air quality. In addition, NSPS OOOO applies to crude oil storage tanks. Removing the permitting exemptions increases the consistency of Colorado's regulations with NSPS OOOO, by requiring these sources to also be subject to Colorado's notification, recordkeeping, and control requirements.

IV. Corrections and Clean-Up

Part B: Minor Source Permit Exemptions

The Division proposes to correct an error in Regulation Number 3, Part B, Section II.D.1.l. Specifically, the Division proposes to delete the final sentence in the minor source permit exemption for clarity.

In December 2008, in an effort to remove oil and gas APEN exemptions to build an emissions inventory, but maintain the associated permitting exemptions, the exemption language was moved from Part A, Section II.D.1.ee. (APEN exemption) to Part B, Section II.D.1.l. (minor source permit exemption). However, at that time, there was an error embedded in the APEN exemption. Prior to 2002, the APEN exemption in Part A, Section II.D.1.ee. read as follows:

Crude oil or condensate loading truck equipment at crude oil production sites where the loading rate does not exceed 10,000 gallons per day averaged over any thirty-day period.

In October 2002, the Commission revised that APEN exemption to read as follows:

Crude oil truck loading equipment at exploration and production sites where the loading rate does not exceed 10,000 gallons of crude oil per day averaged on an annual basis. Condensate truck loading equipment at exploration and production sites that splash fill less than 6750 barrels of condensate per year or that submerge fill less than 16308 barrels of condensate per year.

In or around October 2006, however, the APEN exemption inadvertently merged both the original language and the 2002 revision, likely a result of minor errors with the software conversion of the regulations to electronic formats. In December 2008, when the

exemption was moved to Part B, the erroneous language persisted and is now approved incorrectly into Colorado's SIP. This proposed revision corrects that error.

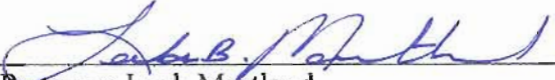

SUMMARY:

The proposed revisions simplify and streamline reporting and permitting requirements, and also reduce the number of sources subject to the dual requirements of Colorado reporting and permitting and federal notification under the applicable federal rule. No emissions increases are anticipated as a result of these revisions because these revisions are primarily administrative in nature and do not change the applicability of existing rules and regulations. Therefore, the Division believes this proposal will not interfere with attainment requirements.

ATTACHMENTS:

1. Memorandum of Notice;
2. Proposed Rule – Regulation Number 3, Parts A, B, C, and Part A Appendix A;
3. Statement of Basis and Specific Statutory Authority and Purpose;
4. Initial Economic Impact Analysis; and
5. CAA §§110(l) Noninterference Demonstration.

SIGNATURES:

1.  11/14/13
Preparer: Leah Martland Date
2.  11/15/13
Supervisor: Dena Wojtach Date
3.  11/15/13
Program Manager: Kirsten King Date
4.  15 Nov 2013
Division Director: William Allison Date